IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

CRP.No. 40 of 2007

EP 2333/04 IN OS.1172/2002 of II ADDL.M.C.,THRISSUR

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REVN. PETITIONERS/DEFENDANTS/JUDGMENT DEBTORS:

1. JOSE P. SEBASTIAN, S/O. P.C.DEVASSY,
   PEREPPADAN HOUSE, PERAMANGALAM,
   THRISSUR.

2. O.V.MURALEEDHARAN, S/O. O.K.VASUDEVAN,
   ODATHUPARAMBIL HOUSE, PERAMANGALAM,
   THRISSUR.

BY ADV. SRI.PHILIP M.VARUGHESE

RESPONDENT/PLAINTIFF/DECREE HOLDER:

ECOMARK GENERAL FINANCE AND LEASING
LTD., REGD. OFFICE, 2ND FLOOR,
THERATTIL J. ANTONY MEMORIAL BUILDING,
THRISSUR.

BY ADV. SRI.P.K.SAJEEV

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

C.R.P.No. 40 of 2007

ORDER

The contention of the counsel for the petitioners/judgment debtors is that apart from a vague observation in the order impugned that the oral testimony of PW1 evidences that judgment debtors 1 and 2 have sufficient means to pay the decree amount, no specific finding was entered into by the court below as regards the means of the petitioners and that even the evidence furnished by the decree holder is only to the effect that the judgment debtors are having both movable and immovable properties and there is no mention of any specific source of income or asset for the petitioners. Counsel for the respondent also does not dispute the correctness of the above submission. Deposition of PW1, read over to me by the counsel for the petitioners, is silent with respect to any specific source of income for the

petitioners.

2. In the result, I set aside the order impugned and remit the case back to the execution court. The execution court shall, before allowing personal execution, enter into a specific finding as regards the means of the petitioners to discharge the decree debt either in lump or in substantial portions thereof. The matter has to be disposed of as expeditiously as possible and in any event within one month from the date on which a copy of this order is received in the court below.

This CRP is disposed of with the above directions.

12th March, 2007 (K.P.Balachandran, Judge)

tkv